

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THOMAS J. O'DONNELL,)
Plaintiff,)
)
v.) C.A. No. 04-12677-NMG
)
INTERNAL REVENUE SERVICE,)
Defendant.)

MEMORANDUM AND ORDER

For the reasons stated below, if plaintiff wishes to proceed with this action, he is directed to file a complaint accompanied either by the \$150.00 filing fee or a fee-waiver application.

BACKGROUND

On December 6, 2004, Mr. Thomas J. O'Donnell of Lynn, Massachusetts, submitted to this Court a one-page, handwritten letter dated November 19, 2004. Mr. O'Donnell's letter is accompanied by (1) a copy of a letter issued to Mr. O'Donnell and his wife by a Department Manager for the Internal Revenue Service (IRS) on August 12, 2004; and (2) a copy an amended income tax return for 2002. Mr. O'Donnell's one-page letter states that the "I.R.S. has refused these documents" and states that "a refund is due based on the proven contributions."

DISCUSSION

Here it is unclear whether Mr. O'Donnell intends for his

letter to initiate a civil proceeding. In order to commence a civil action in this Court, a plaintiff must file a complaint. Fed. R. Civ. P. 3. The complaint must contain a "short and plain statement" (1) of the grounds upon which the court's jurisdiction rests and (2) of the claim(s) showing that the pleader is entitled to relief. Fed. R. Civ. P. 8(a). The complaint must also contain a demand for judgment. Id.

Additionally, a party filing a civil complaint in this Court must either (1) pay the \$150.00 filing fee or (2) file an Application to Proceed Without Prepayment of Filing Fees and Affidavit. See 28 U.S.C. 1914(a) (\$150.00 filing fee); 28 U.S.C. 1915 (proceedings in forma pauperis). Here, plaintiff failed to either pay the filing fee or file a fee-waiver application.

CONCLUSION

Accordingly, if plaintiff wishes to proceed with this action, he is directed to file a complaint accompanied by either the \$150.00 filing fee or a fee waiver application within thirty-five (35) days from the date of this Memorandum and Order, or this action will be dismissed.

The Clerk is directed to send plaintiff (1) a copy of

"Step by Step: A Simple Guide to Filing a Civil Action;" and
(2) an Application to Proceed Without Prepayment of Fees.

SO ORDERED.

Dated at Boston, Massachusetts, this 12th day of December, 2004.

/s/ Nathaniel M. Gorton
NATHANIEL M. GORTON
UNITED STATES DISTRICT JUDGE